

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

FILED
JUN 27 2019
Clerk, U.S. Courts
District Of Montana
Missoula Division

JEROMEY G. JONES,

Plaintiff,

vs.

MONTANA STATE PRISON and MS.
DALY,

Defendants.

CV 18-71-H-DLC-JTJ

ORDER

United States Magistrate Judge John T. Johnston entered his Order and Findings and Recommendations in this case on May 23, 2019, recommending that Plaintiff Jeromey G. Jones' Amended Complaint be dismissed for failure to state a claim. (Doc. 20 at 3.) Jones filed an objection and is entitled to de novo review of those findings and recommendations to which he has specifically objected. 28 U.S.C. § 636(b)(1)(C). Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted). "A party makes a proper objection by identifying the

parts of the magistrate's disposition that the party finds objectionable and presenting legal argument and supporting authority, such that the district court is able to identify the issues and the reasons supporting a contrary result." *Montana Shooting Sports Ass'n v. Holder*, 2010 WL 4102940, at *2 (D. Mont. Oct. 18, 2010) (citation omitted).

Here, Jones' objection merely provides a truncated rendition of the arguments already considered by Judge Johnston. "It is not sufficient for the objecting party to merely restate arguments made before the magistrate or to incorporate those arguments by reference." *Id.* Congress created magistrate judges to provide district judges "additional assistance in dealing with a caseload that was increasing far more rapidly than the number of judgeships." *Thomas*, 474 U.S. at 153. There is no benefit to the judiciary "if the district court[] is required to review the entire matter de novo because the objecting party merely repeats the arguments rejected by the magistrate. In such situations, this Court follows other courts that have overruled the objections without analysis." *Montana Shooting Sports Ass'n*, 2010 WL 4102940, at *2 (internal quotation marks and citation omitted). Consequently, reviewing for clear error and finding none,


IT IS ORDERED that Judge Johnston's Order and Findings and Recommendations (Doc. 20) are ADOPTED IN FULL and this matter is DISMISSED for failure to state a federal claim.

IT IS FURTHER ORDERED that the Clerk of Court is directed to close this matter and enter judgment in favor of Defendants pursuant to Federal Rule of Civil Procedure 58.

IT IS FURTHER ORDERED that the Clerk of Court is directed to have the docket reflect that the Court certifies pursuant to Federal Rule of Appellate Procedure 24(a)(3)(A) that any appeal of this decision would not be taken in good faith. No reasonable person could suppose an appeal would have merit. The record makes plain the Complaint lacks arguable substance in law or fact.

IT IS FURTHER ORDERED that the Clerk of Court is directed to have the docket reflect that this dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g) because Jones failed to state a claim upon which relief could be granted.

DATED this 27th day of June, 2019.



Dana L. Christensen, Chief Judge
United States District Court